IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 8701 of 2007(J)

PETITIONER:

M.B.SATHYAN, MAVUNIKUNNATHIL,
ELANTHOOR EAST P.O., PATHANAMTHITTA.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR, DIARY DEVELOPMENT DEPARTMENT, GOVERNMENT OF KERALA, PATTOM, THIRUVANANTHAPURAM.

3. THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD., KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

4. L.RAJENDRAN, PRESIDENT, KAPPIKKADU KSHEEROLPADAKA SAHAKARAN SANGHAM, KAPPIKKADU, POOVACHAL P.O., THIRUVANANTHAPURAM.

R1 AND R2 BY G.P. SRI. P.K. RAVIKRISHNAN
R3 BY ADV.B.S. KRISHNAN
R4 BY ADV. SRI.SHAJI P.CHALY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE BYELAWS OF THE UNION
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EXT.P2 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 12.6.2006

EXT.P3 TRUE COPY OF THE STATEMENT PREPARED BY THE SOCIETY BASED ON THE PURCHASE REGISTER MAINTAINED AT THE OFFICE OF THE SOCIETY.

EXT.P4 TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT DATED 19.7.2006

EXT.P5 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 3.10.2006

EXT.P6 TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED 29.11.2006

EXT.P7 TRUE COPY OF THE JUDGMENT IN WPC 32865 OF 2006 DATED 11.12.2006

EXT.P8 TRUE COPY OF THE ORDER NO. G2/282/07 PASSED BY THE 2ND RESPONDENT DATED 1.3.2007

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 8701 OF 2007

Dated this the 2nd day of April, 2007

JUDGMENT

Petitioner is challenging Ext.P8 order whereunder the petitioner's society is declared ineligible to continue to be represented through petitioner as member of the Managing Committee of the third respondent, which is an apex society, collecting and marketing milk. Even though petitioner has filed this Writ Petition saying that order is passed disqualifying him personally from being a member of the Managing Committee of the third respondent, I find from Ext.P8 that the order is passed against Varyapuram Ksheerolpadaka Sahakarana Sangam, represented by the petitioner disqualifying it as a member of the third respondent-society, on account of society's failure to supply minimum quantity of milk which is 200 litres per day for the preceding year. Bye-law of the third respondent-society provides that every member society should supply not less than 200 litres of milk per day to be eligible for representation in the Managing Committee. Petitioner got elected in the year 2005 to the Board of third respondent-society for

a period of five years. However, it is clear from Ext.P8 that during the financial year 2005-06 the society represented by the petitioner did not supply the required quantity of milk and therefore society ceased to be eligible for representation in the third respondent's Board. The ground for filing this Writ Petition is that petitioner was not heard before Ext.P8 order was passed. I am unable to entertain this Writ Petition because dispute involves mere questions of fact pertaining to quantity of milk supplied in terms of the bye-laws for being eligible to be represented in the Managing Committee of the third respondent-society, which can be adjudicated in a statutory appeal provided under Section 83(1)(j) of the Kerala Co-op. Societies Act. In the circumstances, W.P. is closed leaving freedom to the petitioner to file statutory appeal against the impugned order. If time for filing appeal by the petitioner, or the society or any other person is over, further three weeks' time from today is granted to file appeal against the impugned order.

(C.N.RAMACHANDRAN NAIR)
Judge